IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.501 OF 2004
IN
SUMMARY SUIT NO.1284 OF 2004

M/s.Mahavir Engineering Company Plaintiff

versus

M/s.M.K.Kotecha Defendant

C.D.Patel i/by Uma Fadia, adv. for plaintiff.

O.S.Kutty i/by H.Mehta & Co; adv. for defendant

CORAM : S.C.DHARMADHIKARI, JJ.

DATE : 18th February 2005

PC :

1. Heard Mr.Patel for plaintiffs and Mr.Kutty appearing for defendants. The claim in the suit is for recovery of Rs.5.00 lakh being the balance amount under the invoices. The machinery supplied by the plaintiffs to the defendants although received at site and substantial payment was made, subsequently, it is the case of the defendants that the length of the goods supplied was short by 1.86 meters. They have pointed out in the affidavit in reply that a suit has been filed in the Court of Civil Judge, Senior

Division, Jalgaon being Special Civil Suit No.152 of 2003 for recovery of a sum of Rs.7.06 lakh together with interest. This claim arises out of the same transaction. In my view, triable issues are involved and in the light of pendency of the civil suit in the Court at Jalgaon, this is a fit case where unconditional leave should be granted. The suit is, therefore, transferred to the list of commercial cases. Usual directions for written statement, discovery, inspection.

(S.C.DHARMADHIKARI, J.)